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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 JOHN GRIFFIN HEADRICK,
12 Petitioner,
13 v.
14 RICHARD MORGAN,
15 Respondent.

Case No. C05-5226FDB
ORDER DISMISSING PETITION

16 The Magistrate Judge recommends that this 28 U.S.C. § 2254 petition be denied as untimely, as he
17 was convicted and sentenced on October 22, 1992, there is no evidence of a direct appeal having been
18 filed. He filed a personal restraint petition in State court on October 22, 1992, the court granted Petitioner
19 the opportunity to who the matter was not now time-barred, and Petitioner responds arguing not that less
20 than one year has passed between the date his conviction and sentence became final, but arguing instead
21 that his constitutional rights were violated because the charges against him were brought by information
22 and not grand jury indictment.

23 The Magistrate Judge recommends that the petition be denied as the Federal provision for grand
24 jury indictment for a capital or otherwise infamous offense has not been applied to the states. *Branzburg v.*
25 *Hayes*, 408 U.S. 665, 688 n. 25 (1972).

26 Petitioner Headrick has filed objections arguing that the Magistrate Judge's conclusion is in error,
27 that the right to indictment by grand jury was secured through the Enabling Act that Congress drafted for
28 the prospective State of Washington and which President Benjamin Harrison declared to be law on

1 November 11, 1889. Furthermore, no provision was made for "piecemeal" adoption, rather a state,
2 including Washington had to adopt the entire U. S. Constitution.

3 The Court is not convinced by Petitioner's arguments. This petition is untimely.

4 NOW, THEREFORE, the Court, having reviewed the petition for *habeas corpus*, the Report and
5 Recommendation of Judge Karen L. Strombom, United States Magistrate Judge, and the remaining record,
6 does hereby find and ORDER:

7 (1) The Court adopts the Report and Recommendation.

8 (2) Petitioner's federal *habeas corpus* petition is DISMISSED.

9 (3) The Clerk is directed to send copies of this Order to Petitioner and to Judge Strombom.

10 DATED this 10th day of August 2005.

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12 FRANKLIN D. BURGESS
13 UNITED STATES DISTRICT JUDGE
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